

**OCT 19 2005**

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**U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

MARIA GABRIELA GUADARRAMA  
VARGAS; et al.,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-73925

Agency Nos. A79-529-798  
A79-529-799

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted October 11, 2005 <sup>\*\*</sup>

Before: T.G. NELSON, TALLMAN, and BEA, Circuit Judges.

Lead petitioner Maria Gabriela Guadarrama Vargas, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' ("BIA") decision summarily affirming an immigration judge's ("IJ") denial of her

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

application for cancellation of removal for failure to establish ten years of continuous physical presence.<sup>1</sup> We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *Vera-Villegas v. INS*, 330 F.3d 1222, 1230 (9th Cir.2003), and we deny the petition for review.

Vargas testified that she returned to Mexico for approximately eight months between September 1992 and May 1993. Accordingly, substantial evidence supports the IJ's determination that Vargas did not meet her burden of proving that she was not absent from the United States for more than 180 days during the relevant ten-year period. *See* 8 U.S.C. § 1229b(d)(2); *Mendiola-Sanchez v. Ashcroft*, 381 F.3d 937, 940-41 (9th Cir. 2004) (discussing the "90/180 day rule").

Contrary to Vargas's contentions, the IJ did not consider whether her removal would cause the requisite hardship to her qualifying relatives.

**PETITION FOR REVIEW DENIED.**

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<sup>1</sup> The other petitioner is a minor child who is a derivative beneficiary of Vargas's applications for cancellation of removal and voluntary departure.